



# Edward Byrne Memorial Justice Assistance Grant (JAG) Program

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## Summary

The Edward Byrne Memorial Justice Assistance Grant (JAG) program was created by the Violence Against Women and Department of Justice Reauthorization Act of 2005 (P.L. 109-162), which collapsed both the Edward Byrne Memorial Formula (Byrne Formula) Grant and the Local Law Enforcement Block Grant (LLEBG) into a single program. This report provides a brief overview of JAG and its funding.

The Bureau of Justice Assistance reports that JAG “is the leading source of federal justice funding to state and local jurisdictions.” According to the National Criminal Justice Association, “[the] breadth and flexibility [of the JAG program] means states and local communities can use [JAG funds] to balance resources and address problems across the entire criminal justice system and to react quickly to urgent challenges and changing circumstances.”

JAG funds are awarded to state and local governments based on a statutorily defined formula. Each state’s allocation is based on its proportion of the country’s population and the state’s proportion of the average total number of reported violent crimes (homicide, rape, robbery, and aggravated assault) for the last three years. After a state’s allocation is calculated, 60% goes directly to the state government and the remaining 40% is awarded directly to units of local government in the state. State and local governments can use their JAG funding for programs or projects in one of seven purpose areas: (1) law enforcement programs; (2) prosecution and court programs; (3) prevention and education programs; (4) corrections and community corrections programs; (5) drug treatment programs; (6) planning, evaluation, and technology improvement programs; and (7) crime victim and witness programs (other than compensation).

Funding for JAG has averaged \$461 million per fiscal year since Congress started appropriating funding for the program in FY2005. However, funding for the program fluctuated over that time period. The appropriations data also show that since FY1998 there has been a general downward trend in providing assistance to state and local law enforcement through the LLEBG, Byrne Formula, and JAG grant programs.

## **Contents**

|  |   |
|--|---|
| Background.....  | 1 |
| JAG Predecessor Grant Programs .....                                     | 1 |
| Edward Byrne Memorial Formula Grant Program.....                         | 1 |
| The Local Law Enforcement Block Grant Program.....                       | 2 |
| Edward Byrne Memorial Justice Assistance Grant (JAG) Program .....       | 2 |
| Appropriations for the Byrne Formula Grant, LLEBG, and JAG Programs..... | 5 |

## **Tables**

|  |   |
|--|---|
| Table 1. Appropriations for Byrne Formula, LLEBG,<br>and JAG Programs, FY1998-FY2012 ..... | 6 |
|--|---|

## **Contacts**

|                                 |   |
|---------------------------------|---|
| Author Contact Information..... | 7 |
|---------------------------------|---|

## **Background**

Historically, crime control has been the responsibility of local and state governments, with little involvement from the federal government. However, as crime became more rampant in the United States, the federal government increased its support for domestic crime control by creating a series of grant programs designed to assist state and local law enforcement. In the late 1980s through the mid-1990s, Congress created the Edward Byrne Memorial Formula Grant (Byrne Formula Grant) program and the Local Law Enforcement Block Grant (LLEBG) program, along with other grant programs,<sup>1</sup> to assist state and local law enforcement in their efforts to control domestic crime. In 2005, however, legislation was enacted that combined the Byrne Formula Grant and LLEBG programs into the Edward Byrne Memorial Justice Assistance Grant (JAG) program.

This report provides background information on the JAG program. It begins with a discussion of the programs that were combined to form the JAG program: the Byrne Formula Grant and LLEBG programs. The report then provides an overview of the JAG program. This is followed by a review of appropriations for JAG and its predecessor programs going back to FY1998. The report concludes with a discussion of some of the issues Congress might consider as it debates the future of the JAG program.

## **JAG Predecessor Grant Programs**

As mentioned, prior to creating the JAG program in the middle part of the past decade, Congress provided federal assistance to state and local governments for a variety of criminal justice programs through the Byrne Formula Grant and LLEBG programs. Each program is briefly described below.

### **Edward Byrne Memorial Formula Grant Program**

The Byrne Formula Grant program was authorized by the Anti-Drug Abuse Act of 1988 (P.L. 100-690).<sup>2</sup> Funds awarded to states under the Byrne Formula Grant program were to be used to provide personnel, equipment, training, technical assistance, and information systems for more widespread apprehension, prosecution, adjudication, detention, and rehabilitation of offenders who violate state and local laws.<sup>3</sup> Grant funds could also be used to provide assistance (other than

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<sup>1</sup> One such program is the Community Oriented Policing Services (COPS) program. For a discussion of the COPS program, see CRS Report RL33308, *Community Oriented Policing Services (COPS): Background and Funding*, by Nathan James.

<sup>2</sup> All 50 states, the District of Columbia, and all U.S. territories were eligible to apply for Byrne formula grant funds. Under the formula, each state and territory received a minimum allocation of \$500,000 or 0.25%, whichever was greater, of the total amount allocated for the fiscal year. After the minimum allocation was made to each state, the remaining funds were allocated by using a formula whereby each state's and territory's allocation was based on its portion of the total U.S. population. Each state and territory was required to "pass through" a certain percentage of its allocation to units of local government. The pass-through percentage for each eligible state was the ratio of the total amount of criminal justice funding provided by all units of local government in the state for the previous fiscal year to the total amount of criminal justice funding provided by both the state and all units of local government in the previous fiscal year.

<sup>3</sup> P.L. 100-690, §501(b).

compensation) to victims of crime.<sup>4</sup> Twenty-nine “purposes areas” were established by Congress to define the nature and scope of the programs and projects that could be funded with the formula grant funds.<sup>5</sup>

### **The Local Law Enforcement Block Grant Program**

The purpose of the LLEBG program, which was also a formula grant program,<sup>6</sup> was to provide units of local government with federal grant funds so they could either hire police officers or create programs that would combat crime and increase public safety.<sup>7</sup> Like the Byrne Formula Grant program, LLEBG had program purpose areas outlining what types of programs LLEBG funds could support. There were six program purpose areas<sup>8</sup> that governed how state and local governments could use their funding under the LLEBG program.<sup>9</sup>

## **Edward Byrne Memorial Justice Assistance Grant (JAG) Program**

The Violence Against Women and Department of Justice Reauthorization Act of 2005 (P.L. 109-162) combined the Byrne Grant programs and LLEBG into the Edward Byrne Memorial Justice Assistance Grant program (JAG). Congress consolidated the programs to streamline the process for states applying for funding under the programs.<sup>10</sup>

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<sup>4</sup> Ibid.

<sup>5</sup> A list of the program purpose areas can be found online at <http://www.ojp.usdoj.gov/BJA/grant/byrnepurpose.html>. P.L. 100-690, §§5104 and 6901(a) established 21 program purpose areas for the Byrne Formula Grant program. Additional program purpose areas were created by P.L. 103-322, §§100003, 140004, 15003, and 210302(a); P.L. 104-132, §822(a); P.L. 106-177, §103; and P.L. 106-561, §2(a).

<sup>6</sup> All 50 states, the District of Columbia, and all U.S. territories were eligible to apply for LLEBG funds. The formula used to distribute LLEBG funds was computed in two stages. First, funds were distributed to each state and territory based on the state’s or territory’s proportion of the average number of Uniform Crime Report (UCR) Part I violent crimes committed in the United States. The average number of UCR Part I violent crimes was calculated using the three most recent years available. Each state and territory received a minimum allocation of 0.25% of the total funds available. In the second stage, some of the funds awarded to each state were directly awarded to units of local government. Each unit of local government’s share of the state allocation was based on the jurisdiction’s proportion of the average number of UCR Part I violent crimes committed in its respective state. However, funding was only directly awarded to a unit of local government if it was eligible to receive \$10,000 or more in funding. The funds that remained after direct allocations were made to units of local government were administered by the state. The state could choose to award funds to units of local government that did not receive a direct allocation.

<sup>7</sup> LLEBG was first authorized by Congress in the FY1996 Commerce, Justice, and State, the Judiciary and Other Related Agencies Appropriations Act (P.L. 104-134). In the conference report that accompanied the act (H.Rept. 104-537), Congress cited H.R. 728 (introduced the 104<sup>th</sup> Congress) as the legislation governing the program. H.R. 728 passed the House, but it never passed the Senate. For more information on LLEBG see, U.S. Congress, House Committee on the Judiciary, *Local Government Law Enforcement Block Grants Act of 1995*, report to accompany H.R. 728, 104<sup>th</sup> Cong., 1<sup>st</sup> sess., H.Rept. 104-24 (Washington: GPO, 1995).

<sup>8</sup> A list of the program purpose areas can be found online at [http://www.ojp.usdoj.gov/BJA/grant/llebg\\_purpose.html](http://www.ojp.usdoj.gov/BJA/grant/llebg_purpose.html).

<sup>9</sup> U.S. Congress, *Making Appropriations for Fiscal Year 1996 to Make a Further Downpayment Toward a Balanced Budget, and for Other Purposes*, report to accompany H.R. 3019, 104<sup>th</sup> Cong., 2<sup>nd</sup> sess., H.Rept. 104-537 (Washington: GPO, 1995), p. 401.

<sup>10</sup> Senate Debate, “Statement on Introduced Bills and Joint Resolutions,” vol. 150 (September 29, 2004), pp. H.R. 9956; House Debate, “Department of Justice Appropriations Authorization Act, Fiscal Years 2004 Through 2006,” vol. 150 (March 30, 2004), pp. H.R. 1683; Senate Debate, “Department of Justice Appropriations Authorization Act, Fiscal (continued...)”

The Bureau of Justice Assistance (BJA), in the U.S. Department of Justice, reports that JAG “is the leading source of federal justice funding to state and local jurisdictions.”<sup>11</sup> The National Criminal Justice Association (NCJA), an advocacy organization that seeks to inform Congress about the needs of state, local, and tribal law enforcement, has characterized JAG as the “cornerstone federal crime-fighting program, enabling communities to target resources to their most pressing local needs.”<sup>12</sup> According to the NCJA, JAG funds can be used for “law enforcement needs, as well as prosecution and courts, prevention and education, corrections and community corrections, drug treatment and enforcement, planning, evaluation and technology, and crime victim and witness programs. This breadth and flexibility means states and local communities can use [JAG funds] to balance resources and address problems across the entire criminal justice system and to react quickly to urgent challenges and changing circumstances.”<sup>13</sup>

JAG funds are allocated to the 50 states, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.<sup>14</sup> The formula used by the JAG program to allocate funds combines elements of the formulas used in the Byrne Formula Grant program and LLEBG. Under the current JAG formula, the total funding allocated to a state is based on the state’s population and reported violent crimes.<sup>15</sup> Specifically, half of a state’s allocation is based on a state’s respective share of the United States’ population. The other half is based on the state’s respective share of the average number of reported violent crimes in the United States for the three most recent years for which data are available.<sup>16</sup> Under current law, each state and territory is guaranteed to receive no less than 0.25% of the amount appropriated for the JAG program in a given fiscal year (i.e., the minimum allocation).<sup>17</sup> Therefore, after each state’s allocation is calculated using the JAG formula, if a state’s allocation is less than the minimum allocation, the state receives the minimum allocation as its award. If a state’s initial allocation was greater than the minimum amount, then the state receives the minimum allocation plus a share of the remaining funds based on the state’s proportion of the country’s population and the reported number of violent crimes (population and violent crime data for the states that received the minimum allocation as their award is excluded when allocating the remaining funds for the states that receive more than the minimum allocation).

After each state’s allocation is calculated, 40% of the state’s allocation is directly awarded to units of local government.<sup>18</sup> Awards to units of local government under JAG are made the same way they were under LLEBG; namely, each unit of local government’s award is based on the

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Years 2006 Through 2009,” vol. 151 (December 16, 2005), pp. H.R. 13766; U.S. Congress, House Committee on the Judiciary, *Department of Justice Appropriations Authorization Act, Fiscal Years 2006 Through 2009*, report to accompany H.R. 3402, 109<sup>th</sup> Cong., 1<sup>st</sup> sess., H.Rept. 109-233 (Washington: GPO, 2005), p. 89.

<sup>11</sup> U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, *Justice Assistance Grant (JAG) Program*, <http://www.ojp.usdoj.gov/BJA/grant/jag.html>.

<sup>12</sup> National Criminal Justice Association, *Byrne JAG Funding: A Snapshot from the States*, [http://www.ncja.org/NCJA/Policies\\_and\\_Practices/Byrne\\_JAG\\_Data\\_Collection/NCJA/Navigation/PoliciesPractices/Byrne\\_JAG\\_Data\\_Collection.aspx?hkey=8bd3d63b-a641-4009-a9a1-bb977cc00e31](http://www.ncja.org/NCJA/Policies_and_Practices/Byrne_JAG_Data_Collection/NCJA/Navigation/PoliciesPractices/Byrne_JAG_Data_Collection.aspx?hkey=8bd3d63b-a641-4009-a9a1-bb977cc00e31), hereinafter “NCJA JAG report.”

<sup>13</sup> *Ibid.*

<sup>14</sup> JAG allocation, by state, for FY2005-FY2010, can be found on BJA’s JAG webpage at <http://www.ojp.usdoj.gov/BJA/grant/jag.html>.

<sup>15</sup> “Violent crimes” include homicide/non-negligent manslaughter, rape, aggravated assault, and robbery.

<sup>16</sup> 42 U.S.C. §3755(a)(1).

<sup>17</sup> 42 U.S.C. §3755(a)(2).

<sup>18</sup> 42 U.S.C. §3755(b).

jurisdiction's proportion of the average number of UCR Part I violent crimes committed in its respective state. Only units of local government that would receive \$10,000 or more are eligible for a direct allocation.<sup>19</sup> The balance of funds not awarded directly to units of local government is administered by the state, which must be distributed to state police departments that provide criminal justice services to units of local government and to units of local government who were not eligible to receive a direct award from BJA.<sup>20</sup> Also, like the Byrne Formula Grant program, each state is required to "pass through" a certain percentage of the funds directly awarded to the state. For JAG, the pass-through percentage is calculated as the ratio of the total amount of expenditures on criminal justice by the state for the most recent fiscal year to the total amount of expenditures on criminal justice by both the state and all units of local government in the past fiscal year.<sup>21</sup>

The Violence Against Women and Department of Justice Reauthorization Act of 2005 consolidated the 28 program purpose areas under the Byrne Formula Grant program and the 7 LLEBG program purpose areas into seven program purpose areas. The seven broad program purpose areas are intended to give states and local units of government flexibility in creating programs to address local needs.<sup>22</sup> JAG funds can be used for state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and criminal justice information systems to improve or enhance such areas as

- law enforcement programs;
- prosecution and court programs;
- prevention and education programs;
- corrections and community corrections programs;
- drug treatment programs;
- planning, evaluation, and technology improvement programs; and
- crime victim and witness programs (other than compensation).<sup>23</sup>

The program purposes areas are broad enough to allow programs funded under the Byrne Grant program and LLEBG to continue to be funded under JAG.<sup>24</sup>

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<sup>19</sup> In some instances a unit of local government or multiple units of local government are required to apply for a single joint award with the county. This happens when BJA certifies that there is a "disparate allocation," meaning that one city qualifies for an amount that is one-and-a-half times more than the county with concurrent jurisdiction or multiple cities qualify for an amount that is four-times more than the county. The unit or units of local government and county representatives must agree on how the total award will be divided and they must sign and submit a memorandum of understanding stating that they all agree on how the joint award will be allocated and used. For more information on the disparate allocation process, see Alexia D. Cooper and Brian A. Reaves, *Justice Assistance Grant (JAG) Program 2010*, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, NCJ 233811, Washington, DC, April 2011, p. 5, <http://bjs.gov/content/pub/pdf/jag10.pdf>.

<sup>20</sup> Ibid.

<sup>21</sup> 42 U.S.C. §3755(c).

<sup>22</sup> U.S. Congress, House Committee on the Judiciary, *Department of Justice Appropriations Authorization Act, Fiscal Years 2006 Through 2009*, report to accompany H.R. 3402, 109<sup>th</sup> Cong., 1<sup>st</sup> sess., H.Rept. 109-233 (Washington: GPO, 2005), p. 89.

<sup>23</sup> 42 U.S.C. §3751(a).

<sup>24</sup> Senate Debate, "Statement on Introduced Bills and Joint Resolutions," vol. 150 (September 29, 2004), pp. H.R. 9956.

## **Appropriations for the Byrne Formula Grant, LLEBG, and JAG Programs**

Funding for JAG has averaged \$461 million per fiscal year since Congress started appropriating funding for the program in FY2005. However, as shown in **Table 1**, funding for the program fluctuated over that time period. The appropriations data also show that there has been a general downward trend in providing assistance to state and local law enforcement through these formula grant programs. Trends in funding for the Byrne Formula Grant, LLEBG, and JAG programs roughly mirror those of other Department of Justice (DOJ) grant accounts.<sup>25</sup> The amounts *appropriated* for JAG over the fiscal years have been below the amount *authorized* for the program, which was \$1.095 billion per fiscal year for FY2006-FY2012.<sup>26</sup> Since funding was authorized for the program in FY2006, the most Congress appropriated for JAG—\$546 million for FY2009—represented 50% of the amount authorized per fiscal year.

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<sup>25</sup> These include the Violence Against Women Program (FY2004-FY2011), Justice Assistance (FY1998-FY2011), State and Local Law Enforcement Assistance (FY1998-FY2011), Weed and Seed (FY1998-FY2010), Community Oriented Policing Services (FY1998-FY2011), and Juvenile Justice Programs (FY1998-FY2011) accounts.

<sup>26</sup> 42 U.S.C. §3578.



**Table I. Appropriations for Byrne Formula, LLEBG, and JAG Programs, FY1998-FY2012**

(funding in millions of \$)

| FY                | Byrne Formula | LLEBG                | JAG                | Total     |
|-------------------|---------------|----------------------|--------------------|-----------|
| 1998              | \$505.0       | \$523.0 <sup>a</sup> | —                  | \$1,028.0 |
| 1999              | 505.0         | 523.0 <sup>b</sup>   | —                  | 1,028.0   |
| 2000              | 500.0         | 523.0 <sup>c</sup>   | —                  | 1,023.0   |
| 2001              | 498.9         | 521.8 <sup>d</sup>   | —                  | 1,020.7   |
| 2002              | 500.0         | 400.0 <sup>e</sup>   | —                  | 900.0     |
| 2003              | 496.8         | 397.4 <sup>f</sup>   | —                  | 894.2     |
| 2004              | 494.7         | 222.6 <sup>g</sup>   | —                  | 717.3     |
| 2005              | —             | —                    | 625.5 <sup>h</sup> | 625.5     |
| 2006              | —             | —                    | 411.2 <sup>i</sup> | 411.2     |
| 2007              | —             | —                    | 519.9 <sup>j</sup> | 519.9     |
| 2008              | —             | —                    | 170.4 <sup>k</sup> | 170.4     |
| 2009 <sup>l</sup> | —             | —                    | 546.0 <sup>m</sup> | 546.0     |
| 2010              | —             | —                    | 519.0 <sup>n</sup> | 519.0     |
| 2011              | —             | —                    | 429.9 <sup>o</sup> | 429.9     |
| 2012              | —             | —                    | 470.0 <sup>p</sup> | 470.0     |

**Sources:** FY1998 amounts taken from H.Rept. 105-405; FY1999 amounts taken from H.Rept. 105-825; FY2000 amounts taken from H.Rept. 106-479; FY2001 amounts taken from H.Rept. 106-1005; FY2002 amounts taken from H.Rept. 107-278; FY2003 amounts taken from H.Rept. 108-10; FY2004 amounts taken from H.Rept. 108-401; FY2005 amounts taken from H.Rept. 108-792; FY2006 amounts taken from H.Rept. 109-272; FY2007 amounts taken from the Office of Justice Program's FY2009 Congressional Budget Submission; FY2008 amounts taken from the House Appropriations Committee Print on the Consolidated Appropriations Act, 2008 (P.L. 110-161); FY2009 amounts taken from the House Appropriations Committee Print on the Omnibus Appropriations Act, 2009 (P.L. 111-8); FY2010 amounts taken from H.Rept. 111-366; FY2011 amounts based on a CRS analysis of the text of P.L. 112-10; and FY2012 amounts taken from H.Rept. 112-284.

**Note:** Amounts shown in **Table I** are in nominal, not inflation-adjusted, dollars.

- a. FY1998 appropriated funding for LLEBG included \$20 million for the Boys and Girls Club of America.
- b. FY1999 appropriated funding for LLEBG included \$40 million for the Boys and Girls Club of America and \$20 million for the National Institute of Justice (NIJ) for developing law enforcement technology.
- c. FY2000 appropriated funding for LLEBG included \$50 million for the Boys and Girls Club of America and \$20 million for NIJ for developing law enforcement technology.
- d. FY2001 appropriated funding for LLEBG included \$59.9 million for the Boys and Girls Club of America and \$20 million for NIJ for developing law enforcement technology.
- e. FY2002 appropriated funding for LLEBG included \$70 million for the Boys and Girls Club of America and \$20 million for NIJ for developing law enforcement technology.
- f. FY2003 appropriated funding for LLEBG included \$79.5 million for the Boys and Girls Club of America, \$19.9 million for NIJ for developing law enforcement technology, and \$3 million for Citizen Corps.
- g. FY2004 appropriated funding for LLEBG included \$79.2 million for the Boys and Girls Club of America, \$9.9 million for NIJ for developing law enforcement technology, and \$3 million for USA Freedom Corps.

- h. FY2005 appropriated funding for JAG included \$83.9 million for the Boys and Girls Club of America, \$9.9 million for NIJ for developing law enforcement technology, and \$2.5 million for USA Freedom Corps.
- i. FY2006 appropriated funding for JAG included \$83.9 million for the Boys and Girls Club of America and \$9.9 million for NIJ for developing law enforcement technology.
- j. FY2007 appropriated funding for JAG included \$19.7 million for NIJ for developing law enforcement technology.
- k. FY2008 appropriated funding for JAG included \$2 million for NIJ for developing law enforcement technology and \$2 million to increase the intelligence capabilities of local law enforcement.
- l. The American Recovery and Reinvestment Act of 2009 (P.L. 111-5) included \$2 billion for JAG. This amount is not reflected in **Table I** because it was designated as an emergency appropriation.
- m. FY2009 appropriated funding for JAG included \$5 million for NIJ for developing law enforcement technology, \$2 million to increase the intelligence capabilities of local law enforcement, and \$7 million to reimburse state and local law enforcement for security and related costs associated with protecting the President-elect during the presidential transition period.
- n. FY2010 appropriated funding for JAG included \$5 million for NIJ for developing law enforcement technology and \$3 million to increase the intelligence capabilities of local law enforcement.
- o. FY2011 appropriated funding for JAG includes \$4.1 million for NIJ for developing law enforcement technology and \$2.5 million to increase the intelligence capabilities of local law enforcement.
- p. FY2012 appropriated funding for JAG includes \$100 million for security at the presidential nominating conventions, \$4 million for domestic radicalization research, \$6 million for a criminal justice reform and recidivism reduction program, \$2 million for state and local anti-terrorism training, \$4 million for a state and local assistance help desk and diagnostic center, and \$2 million for the VALOR initiative.

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